

**CITY OF WILMINGTON  
PLANNING COMMISSION WORK SESSION MINUTES  
Wednesday, August 12, 2020**

A work session of the Wilmington Planning Commission was held on **Wednesday, August 12, 2020 at 3:30 p.m.** in the Wilmington Convention Center, 10 Convention Center Drive, Wilmington, NC. Those present at the Convention Center included:

**Members Present**

Chairman Richard Collier  
Vice-Chairman Jeff Hovis

**Staff Present**

Mr. Shawn Evans, Assistant City Attorney  
Mr. Ron Satterfield, Assistant Planning Director  
Ms. Amy Bradshaw, Planning Coordinator

The following members and staff were present via video conference:

**Members (Remote Presence)**

Mr. Bruce Bowman  
Ms. Candy Cortes  
Ms. JC Lyle  
Mr. Al Sharp  
Mr. Ron Woodruff

**Staff (Remote Presence)**

Christine Hughes, Senior Planner  
Ms. Kathryn Thurston, Zoning Administrator

*Due to Session Law 2020-3 signed into law by the Governor of North Carolina, effective May 4, 2020, provisions were enacted to ensure compliance with the new legislation regarding remote meetings.*

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Chairman Collier called the meeting to order at 3:34 p.m. and stated that the meeting would provide a presentation and opportunity for discussion on the proposed update to Article 7, Administrative Provisions, of the Land Development Code (LDC).

Mr. Ron Satterfield, Assistant Planning Director, stated that this is the Planning Commission's fourth work session on the update to the city's Land Development Code (LDC) and gave a presentation on the proposed changes to Article 7, Administrative Provisions. He noted that a summary sheet and previous presentations had been posted online at the dedicated Land Development Code web page. He said that staff had received comments regarding historic preservation which would be addressed in the presentation.

Mr. Satterfield reminded the commission that the *Create Wilmington Comprehensive Plan* serves as the foundation for this update.

Mr. Satterfield introduced a Summary of Review Authority chart designed to help developers navigate the necessary inner processes involving boards and commissions. Also new, is the requirement of preapplication meetings for categories of applications including zoning map and text amendments, major works for a Certificate of Appropriateness (COA) through the Historic Preservation Commission, site plans, 100-year flood plain development, subdivisions, variances, and a few others. He noted that the applicant will be responsible for keeping topic summaries of preapplication meetings. These meetings will serve in an advisory capacity only; no approvals will be given.

Mr. Satterfield outlined other proposed changes to Article 7, as follows:

- Neighborhood meetings for Conditional Districts (CD) and Special Use Permits (SUP) prior to application
- Notice to property owners and occupants extended to those within 300 feet of the property; notices to be mailed 10 days before the meeting
- Completeness review for all applications
- A single point of contact to be provided by the applicant
- Filing calendar established by respective boards and commissions, to be maintained by staff on city's website
- Simplification of SUP submittal deadlines
- City provided signs for hearings to be posted by applicant
- Electronic notices as a courtesy
- Acceptable minor defects in notices
- Consistency with NC General Statutes Chapter 160D
  - Discontinuance of delayed applications
  - Written consent by all property owners for down-zoning (except where proposed by the city)
  - Clarification of the conditions of approval
  - Hearings to be identified as legislative or quasi-judicial
  - Codified language for denied applications for quasi-judicial decisions

Mr. Satterfield stated that flow charts for processes will be included in the code. He noted that consistency and/or reasonableness statements and timeframes have been revised to conform to Chapter 160D for map amendments and LDC text amendments. Other proposed changes include:

- Subdivisions: Technical Review Committee (TRC) to approve preliminary plans if compliant with city standards. Waivers to be reviewed by a quasi-judicial Design Adjustment Committee (DAC). Expedited subdivisions codified according to 2017 legislation.
- Performance Guarantees will be provided by developers to assure all improvements are successfully completed. These have been updated with the legislative changes of Chapter 160D and other session laws. Adjustments have been made to what will be included and to reduce the cap to \$20,000.

Chairman Collier commented that the latter changes will be beneficial to help expedite the process.

Mr. Satterfield resumed his presentation. He stated that some of the comments mentioned earlier expressed opposition to the proposed changes regarding demolitions in the historic district. He noted that the Historic Preservation Commission (HPC) does not have the ability to deny demolitions in the

local historic districts; but can delay the effective date for up to 365 days. By statute, the commission is required to negotiate with the owner and other parties regarding the time and needs for preserving buildings. Staff has proposed that the expiration date of a COA for the demolition of a building be removed. Additionally, staff proposes the elimination of the provision for the commission to delay a demolition outside the local historic district for up to 90 days, because the statutes do not support it.

Mr. Satterfield stated that staff also proposes to reduce the number of HPC members from nine to seven. He noted that state law requires members to be city residents and have a demonstrated special interest, experience, or education in history, architecture, archaeology, or a related field. This has made it difficult to find and retain qualified members. He pointed out that a smaller board size would be more manageable, especially considering that the pool of applicants is limited to the historic district, which is only one square mile.

In response to concerns expressed by Chairman Collier, Mr. Satterfield stated that most members of the quasi-judicial board would still need to have a special interest. Additionally, reviews of appeals will go to the quasi-judicial Board of Adjustment (BOA).

Mr. Satterfield explained that the Design Adjustment Committee (DAC) is proposed to be a quasi-judicial board to replace the Subdivision Review Board (SRB). He noted that the DAC will review major deviations from the city's technical standards, such as building design materials, which have yet to be defined, and waivers for the SRB process.

Mr. Satterfield stated that staff proposes to remove language regarding nonconformities created by public action, and to remove obsolete language related to outdoor advertising signs. Regarding the challenges of signage in the rights-of-way, language is proposed to clarify that each sign is a violation to entice compliance with the regulations. He reiterated that Article 7 has been added to the city's website, and comments continue to be gathered.

Chairman Collier expressed appreciation for the presentation and asked commissioners if they had any questions.

Commissioner Bowman commented that the matrix for procedures and the flow charts are useful. He asked about identifying those within 300 feet for notices, and the completeness of the application. Mr. Satterfield responded that staff has the tools to verify the lists and the applications.

In response to an inquiry by Commissioner Sharp, Mr. Satterfield stated that the comments received opposed the elimination of the 90-day stay in demolition for properties outside the local historic district/inside the National Register. He pointed out that an application for a demolition permit still would be required. He explained that staff researched demolitions outside the local historic district but within the National Register and found that in 2015, 64 applications were filed, 14 of which went to the HPC and 13 of those received a waiver of the 90-day stay. Of the remaining requests, one was relocated, and 49 others endured the 90 days prior to demolition. He reiterated that without statutory authority, the city can no longer enforce the stay.

Commissioner Sharp expressed a desire to protect defining elements of the city's character. Mr. Satterfield responded that owners of properties in the National Register can seek local historic designation, special legislation, or preservation easements, which require a grassroots effort.

Commissioner Cortes expressed some confusion between design adjustments and variances. Chairman Collier suggested that terminology such as “variance” be used for the BOA and “waiver” for the DAC. Mr. Satterfield responded that staff would review the language further.

Commissioner Bowman inquired about the benchmarks for major versus minor. Mr. Satterfield explained that staff would make those determinations based on criteria in the code.

A brief question/answer and discussion period proceeded regarding notifications. Chairman Collier expressed concerns about the mechanism for the notification list, especially for apartment complexes.

Commissioner Lyle expressed appreciation for the summary table and the streamlining of processes. She commented the applicant being required to post their own signs might not have the streamlining effect desired by staff. She spoke in favor of staff making decisions on conforming subdivisions and pointed out that quantifiable criteria exist to differentiate minor from major deviations. She inquired about the LDC amendment application schedule on page 7-8.

Mr. Satterfield thanks Commissioner Lyle and expressed regret at neglecting to draw attention to the error on page 7-8. He noted that the Planning Commission meeting for applications due in January should read “April” (not “January”).

Chairman Collier inquired about the schedule and the compliance of the hearing signs. Mr. Satterfield clarified that the schedule is for those processes that involve boards and commissions. He credited the City of Raleigh with this idea and with that of the summary table. He noted that signs placed by applicants in the right-of-way will be considered compliant since it is a requirement.

Commissioner Cortes expressed concerns regarding the physical weight of the signs and them being able to withstand strong winds, and, also, the dates on page 7-9, under (H)(3)(c). Mr. Satterfield responded that staff would provide the applicants guidance regarding the signs and would review the timing.

Chairman Collier expressed interest in the city hosting its own code and inquired about the community meeting requirement. Mr. Satterfield responded that hosting has yet to be determined whether it would continue or be changed. As far as the meeting requirement, he noted that conditional use rezonings and special use permits require a neighborhood meeting prior to the applicant submittal; although, staff encourages these meetings for other types of applications as well.

Commissioner Lyle expressed concerns regarding the subjective language under post-decision administrative amendments and (D)(1)(b) on page 7-25. Mr. Satterfield responded that staff agrees and will review the language that currently exists to improve it. Commissioner Cortes commented that importance (major or minor) is relative to the individual and necessitates community input.

Richard asked staff to clarify the 90-day option for approving text amendments. Mr. Satterfield stated that this gives the board the opportunity to fully vet recommendations on text amendments, which are holistic and citywide. Although, the board will not be held to the 90 days if unnecessary.

In response to an inquiry regarding by Chairman Collier, Mr. Satterfield stated that the Planning Commission made recommendations on the flood plain standards in 2018. Commissioner Cortes requested that flood plain decision-making on page 7-41 (C)(2)(a) refer to the joint city-county CAMA Plan. Mr. Satterfield responded that staff would discuss it.

Commissioner Bowman requested that an administrative bypass provision be included under historic preservation relative to hurricane damage due to the roofing backlog after Hurricane Florence. He noted that tarps remained on roofs for up to a year afterwards. He also inquired about the statute for HPC appeals. Mr. Satterfield pointed out that many historic properties were dealing with insurance agencies. He added that the statute allowed the city to decide if the appeal should go to the Board of Adjustment or to Superior Court. He noted that the city chose to send appeals to the BOA.

In response to an inquiry by Chairman Collier regarding vested rights, Mr. Satterfield stated that the only change was to make it consistent with state law.

In response to an inquiry by Commissioner Bowman, Mr. Satterfield stated that criteria for DAC members is under boards and commissions on page 7-79. He advised that, as proposed, membership comprises technical staff such as the City Engineer, the Fire Marshal, and a representative from the Utility Authority.

Chairman Collier commended staff for reducing the number of HPC members. Mr. Satterfield responded that the City Council might have a different opinion. He noted that the changes will be presented to the HPC in September.

Commissioner Lyle recommended articulating a purpose statement for each committee to give some guidance to the members and those selecting appointments to the board. She requested member selection criteria, such as that of the HPC, for the Planning Commission and Board of Adjustment, to assure expert representation.

Commissioner Sharp inquired about the expansion of non-conforming uses on page 7-81 (2). Mr. Satterfield responded that this is the current language; but staff will discuss it. Commissioner Bowman inquired about clarifying non-conforming uses of a site.

In response to Commissioner Sharp, Ms. Thurston stated that the allowance to replace structures with larger structures applies to residential dwelling units; for larger homes that avoid creating nonconforming uses. In response to Commissioner Bowman regarding unlawful use of open land, she gave the example of increasing the number of parked cars from two to 10.

Commissioner Sharp requested clarification on Section 2 and Section 3 on the extension or enlargement of non-conforming uses, which appear contradictory. Mr. Satterfield responded that staff would review.

Commissioner Sharp complimented staff on the update of this large section, particularly the flow charts, which made it user friendly.

Commissioner Bowman reminded staff that the membership terms for Chairman Collier and Vice-Chairman Hovis are due to expire in September. Mr. Satterfield expressed a desire for Chairman Collier and Vice-Chairman Hovis to remain on the commission until the LDC update is approved. He commented that generally members continue to serve until they are replaced by the Appointments Committee.

Mr. Satterfield stated that the next work session would be to review Article 4, Environmental Regulations, which would include conservation regulations, exceptional design criteria, stormwater regulations, and flood plain regulations.

Mr. Satterfield told the commission that the Central Business District (CBD) proposed regulations will be presented to Council on Monday morning and an e-mail would follow on Tuesday or Wednesday.

There being no further business, Chairman Collier adjourned the meeting at 5:30 p.m.

The next regular meeting of the Planning Commission will be held on Wednesday, September 2, 2020.  
The next work session of the Planning Commission will be held on Wednesday, September 2, 2020 at 3:30 p.m.

Respectfully submitted,

Amy Bradshaw  
Planning Coordinator

*Please note: The minutes are not a verbatim record of the proceedings.*